



## **DEPARTMENT OF HOMELAND SECURITY**

### **6 CFR Part 37**

**[Docket No. DHS-2023-0016]**

### **Minimum Standards for Driver's Licenses and Identification Cards Acceptable by Federal Agencies for Official Purposes; Corrections**

**AGENCY:** Office of the Secretary, (DHS).

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This final rule amends the Department of Homeland Security REAL ID regulations by making non-substantive technical revisions to two provisions that incorporate standards by reference. It also consolidates and updates the standardized incorporation by reference approval language into one centralized section for this part. This action is editorial in nature and does not impose any new regulatory requirements on affected parties.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The incorporation by reference of the material listed in this rule into § 37.4 is approved by the Director of the Federal Register as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The incorporation by reference of the material listed in this rule elsewhere was approved by the Director of the Federal Register as of March 31, 2008.

**FOR FURTHER INFORMATION CONTACT:** Julia Follick, Office of General Counsel, DHS; telephone: (202) 875-4913; email: [Julia.Follick@hq.dhs.gov](mailto:Julia.Follick@hq.dhs.gov).

### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

The REAL ID Act sets minimum security requirements for the issuance and production of driver's licenses and identification cards in order for federal agencies to accept these documents for official purposes.<sup>1</sup> DHS regulations implementing the Act are codified at 6 CFR part 37.<sup>2</sup> Within this part, §§ 37.17 and 37.19 incorporate four standards by reference.

Incorporation by reference (IBR) allows federal agencies to comply with the requirement to publish rules in the *Federal Register* and Code of Federal Regulations (CFR)<sup>3</sup> by referring to material already published elsewhere.<sup>4</sup> The regulations agencies must follow to IBR publications into the CFR are found at 1 CFR part 51. Part 51 requires agencies to provide specific information related to the publications along with contact information for the publishers, the agency and the National Archives and Records Administration. In order to help Federal agencies meet this and the other requirements established in 1 CFR part 51, the Office of the Federal Register publishes the IBR Handbook.<sup>5</sup> The IBR Handbook provides standardized language that meets the requirements of part 51. It also provides examples of the ways agencies can set out this language in their regulations depending on whether the agency is incorporating one standard in one section or multiple standards into multiple sections in a part. When Federal agencies seek to IBR multiple standards into different sections, the OFR provides agencies the option to codify one section that contains the standardized approval language along with all the standards incorporated by reference into a discrete CFR unit, such as a Chapter, Subchapter, Part or Subpart. This "centralized IBR section" allows Federal agencies to consolidate IBR information

---

<sup>1</sup> Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Pub. L. 109-13, Div. B, title II, sections 201 to 207, May 11, 2005, as amended (codified at 49 U.S.C. 30301 note) (the REAL ID Act). The REAL ID Act applies to the 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

<sup>2</sup> 73 FR 5272 (Jan. 29, 2008).

<sup>3</sup> 44 U.S.C. chapter 15.

<sup>4</sup> 5 U.S.C. 552(a). Congress in the Freedom of Information Act authorized the Director of the Federal Register (Director) to normalize the process used by federal agencies to IBR publications into the CFR.

<sup>5</sup> The Office of the Federal Register's IBR Handbook: Release 1-2022 can be found at: <https://www.archives.gov/federal-register/write/handbook/ibr-supplement>.

into a single section instead of repeating this language in each section where the publication is incorporated.

## **II. Description of Technical Revisions**

Currently, 6 CFR 37.17 and 37.19 are formatted so that the standardized IBR approval language required by 1 CFR part 51 is repeated in §§ 37.17(e), (g), (m) and 37.19. This means that the detailed information related to IBR approval, publisher information, and agency contact information is repeated in its entirety in four separate CFR paragraphs in two separate sections in part 37. This rule removes the IBR approval language from each of these individual paragraphs and consolidates the language into new § 37.4 *Incorporation by Reference*. This consolidation increases the readability of the part by removing duplicative language from §§ 37.17 and 37.19.

Finally, in the course of drafting this technical amendment, DHS realized that our contact information in these provisions was out of date. This rule also revises the IBR approval language in § 37.4 to update the email address to contact the department if you are interested in examining the standards incorporated by reference into 6 CFR part 37.

## **III. Administrative Procedure Act**

DHS has determined that this rule is exempt from notice-and-comment rulemaking requirements under 5 U.S.C. 553(b)(A) and 5 U.S.C. 553(b)(B). The revisions set out in this rule pertain to reformatting the current codified text and updating contact information and constitutes “rules of agency organization, procedure, or practice” not subject to the Administrative Procedure Act’s (APA) notice and comment requirements under 5 U.S.C. 553(b)(A). The revisions set out in this rule are technical or editorial non-substantive formatting changes, which are intended to consolidate standardized information already published in the CFR and to update out of date contact information for the department. These changes are necessary to consolidate redundant language into one centralized section to streamline CFR formatting to improve the clarity of the CFR. They also update department contact information. None of the revisions

included in this action will have a substantive impact on the public nor will they alter the regulatory requirements in the affected part. Accordingly, DHS finds for good cause that this final rule is exempt from public notice-and-comment rulemaking procedures under 5 U.S.C. 553(b)(B) because such procedures are unnecessary.

For the same reasons that this rule is exempt from notice-and-comment rulemaking requirements, and because affected parties will not need time to adjust to the revisions made through this action, DHS finds that good cause exists to make this final rule effective upon publication in the Federal Register under 5 U.S.C. 553(d)(3).

#### **IV. Regulatory Flexibility Act and Executive Order 12866**

Because DHS has determined that this rule is exempt from notice and comment rulemaking requirements, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply to this action. This technical amendment also does not meet the criteria for a “significant regulatory action” as specified in Executive Order 12866.

#### **V. Paperwork Reduction Act**

There is no new or amended collection of information required by this document; therefore, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) are inapplicable.

#### **List of Subjects**

6 CFR Part 37

Incorporation by reference, Licensing and registration, Motor vehicle safety, Motor vehicles, Personally identifiable information, Privacy, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble, the Department of Homeland Security corrects 6 CFR part 37 by making the following technical amendments:

## **PART 37 - REAL ID DRIVER'S LICENSES AND IDENTIFICATION CARDS**

1. The authority citation for part 37 continues to read as follows:

Authority: 49 U.S.C. 30301 note; 6 U.S.C. 111, 112.

2. Add § 37.4 to read as follows:

### **§ 37.4 Incorporation by reference.**

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the Department of Homeland Security (DHS) and at the National Archives and Records Administration (NARA). For information on the availability of this material at DHS Headquarters in Washington D.C., please email [requesttoreviewstandards@hq.dhs.gov](mailto:requesttoreviewstandards@hq.dhs.gov). For information on the availability of this material at NARA, visit [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html) or email [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov). The material may be obtained from the following sources:

(a) American Association of Motor Vehicle Administrators (AAMVA) 4301 Wilson Boulevard, Suite 400, Arlington, VA 22203; website: [www.aamva.org](http://www.aamva.org).

(1) 2005 AAMVA Driver's License/Identification Card Design Specifications, Annex A, section A.7.7.2., March 2005 (AAMVA Specifications); IBR approved for § 37.17.

(2) [Reserved]

(b) International Civil Aviation Organization (ICAO), I CAO, Document Sales Unit, 999 University Street, Montreal, Quebec, Canada H3C 5H7; e-mail: [sales@icao.int](mailto:sales@icao.int).

(1) ICAO 9303, "Machine Readable Travel Documents," Volume 1, part 1, Sixth Edition, 2006; IBR approved for § 37.17.

(2) [Reserved]

(c) International Organization for Standardization, Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland; phone: +41 22 749 01 11; email: customerservice@iso.org; website: www.iso.org/contact-iso.html. (Also available by contacting ANSI at ANSI, 25 West 43rd Street, 4th Floor, New York, New York 10036 website: www.ansi.org.)

(1) ISO/IEC 19794-5:2005(E) Information technology - Biometric Data Interchange Formats - Part 5: Face Image Data, dated June 2005; IBR approved for § 37.17.

(2) ISO/IEC 15438:2006(E) Information Technology - Automatic identification and data capture techniques - PDF417 symbology specification, dated June 2006; IBR approved for § 37.19.

3. In § 37.17, revise paragraphs (e)(1), (g)(1), and (m) to read as follows:

**§ 37.17 Requirements for the surface of the driver's license or identification card.**

\* \* \* \* \*

(e) \* \* \*

(1) States shall follow specifically ISO/IEC 19794-5:2005(E) (incorporated by reference; see § 37.4).

\* \* \* \* \*

(g) \* \* \*

(1) The card must include the signature of the card holder. The signature must meet the requirements of the AAMVA Specifications (incorporated by reference; see § 37.4). This standard includes requirements for size, scaling, cropping, color, borders, and resolution.

\* \* \* \* \*

(m) *Printed information.* The name, date of birth, gender, card number, issue date, expiration date, and address on the face of the card must be in Latin alpha-numeric characters. The name must contain a field of no less than a total of 39 characters, and longer names shall be truncated following the standard established by ICAO 9303 (incorporated by reference; see § 37.4).

\* \* \* \* \*

4. In § 37.19, revise the introductory paragraph to read as follows:

**§ 37.19 Machine readable technology on the driver's license or identification card.**

For the machine readable portion of the REAL ID driver's license or identification card, States must use ISO/IEC 15438:2006(E) (incorporated by reference; see § 37.4). The PDF417 bar code standard must have the following defined minimum data elements:

\* \* \* \* \*

Alejandro N. Mayorkas,  
Secretary,  
U.S. Department of Homeland Security.

[FR Doc. 2023-14485 Filed: 7/11/2023 8:45 am; Publication Date: 7/12/2023]